

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 96.11, the Director of the Workforce Development Department hereby gives Notice of Intended Action to amend Chapter 21, “Unemployment Insurance Services Division,” Chapter 22, “Employer Records and Reports,” Chapter 23, “Employer’s Contribution and Charges,” and Chapter 24, “Claims and Benefits,” Iowa Administrative Code.

The proposed amendments make the following changes:

The amendments to paragraphs 21.1(1)“c” and “d” update the description of functions performed in the tax bureau.

The amendment to subrule 22.3(1) includes new electronic filing provisions.

The amendment to subrule 22.3(6) provides for electronically filed reports.

The amendment to rule 871—22.4(96) removes obsolete language and updates procedures.

The amendment to rule 871—22.11(96) provides for reporting units in lieu of separate account numbers.

The amendment to rule 871—22.12(96) provides information regarding reporting units.

The amendment to rule 871—22.13(96) reflects electronic filing, which will have reporting units in place of location codes.

The amendment to paragraph 22.17(4)“i” provides a description of current audit procedures.

The amendment to paragraph 22.17(4)“k” updates the current procedures of the Department.

The amendments to subrules 22.18(1) and 22.18(2) update the information required of employer representatives to include electronic filing.

The amendment to subrule 23.8(3) includes the due date for new agricultural and domestic employers.

The amendment to rule 871—23.9(96) reflects the format of the current form.

The amendments to subrules 23.11(3) to 23.11(6) remove obsolete language.

The amendments to subrules 23.17(1), 23.17(9) and 23.17(14) remove obsolete language and update procedures.

The amendment to subrule 23.18(3) excludes sons or daughters from coverage for performing services for parents as part of a community-based support program.

The amendment to subrule 23.31(2) updates the items transferred in a partial successorship.

The amendments to subrule 23.32(4) remove obsolete language.

The amendment to rule 871—23.36(96) updates procedures.

The amendment to rule 871—23.37(96) removes obsolete language and updates procedures.

The amendment to rule 871—23.46(96) rescinds the rule because the applicable accounts have been eliminated.

The amendment to rule 871—23.47(96) clarifies that employer accounts with no activity are placed in inactive status.

The amendment to rule 871—23.48(96) provides that a reactivated account will retain the same account number.

The amendment to subrule 23.60(2) provides the current penalty structure for obsolete reports.

The amendment to subrule 23.70(11) clarifies that an employer changing status will retain the same account number.

The amendment to paragraph 24.22(2)“f” conforms with federal law contained in the American Recovery and Reinvestment Act of 2009 and provides that individuals must be available for work for the same number of hours as they earned wages in the base period.

The amendment adopting new rule 871—24.40(96) implements the new training extension benefits established in 2009 Iowa Acts, Senate File 197, and is designed to be in conformity with the American Recovery and Reinvestment Act of 2009.

The amendment to subrule 24.58(1) extends the duration of a voluntary shared work program by an employer from 26 weeks to 52 weeks.

The amendment to rule 871—24.58(96) updates the implementation sentence.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

No variance provisions are included in these rules. Variances procedures are set forth in 871—Chapter 41 where applicable.

Interested persons, governmental agencies and associations may present written comments or statements on the proposed amendments not later than 4:30 p.m. on March 30, 2010, to LeLoie Dutemple, Workforce Development Department, Unemployment Insurance Services Division, 1000 East Grand Avenue, Des Moines, Iowa 50319.

A public hearing will be held at 9:30 a.m. on March 30, 2010, at the above address. The proposed amendments are subject to revision after the Department considers all written and oral presentations. Persons who wish to convey their views orally should contact LeLoie Dutemple at (515)281-5526 or at the above address.

These amendments are intended to implement Iowa Code sections 96.4(3), 96.6(2), 96.7(2), 96.7(2)“b,” 96.7(2)“b”(5), 96.7(7), 96.7(10), 96.8, 96.8(2), 96.8(4), 96.11(1), 96.11(6), 96.11(6)“a,” 96.14(2), 96.19(18)“a”(2), 96.19(18)“g”(5), 96.19(16)“l” and “m,” 96.19(17), and 2009 Iowa Acts, Senate File 197, section 1, 2009 Iowa Acts, Senate File 478, section 111, and 2009 Iowa Acts, Senate File 197, section 2.

The following amendments are proposed.

ITEM 1. Amend paragraph **21.1(1)“c”** as follows:

c. Tax bureau. The tax bureau is responsible for the maintenance and control of all records of unemployment insurance tax paid by liable employers in the state of Iowa. Taxes collected are deposited in a fund to be subsequently used for benefit payments. ~~This section~~ The bureau maintains financial records on employers; assigns rates each year to employers; makes all necessary adjustments to ensure proper charging to employers of benefits chargeable to them; maintains records of employer overpayments and refunds; and maintains the necessary contacts with employers’ accountants, attorneys, and the general public to ensure the proper and timely submission of all the required reports to the division of unemployment insurance. The ~~collection section~~ bureau is responsible for the collection of delinquent tax contributions, benefit reimbursements, and unpaid interest and penalty assessments from all Iowa employers who file job insurance reports. Staff instigates routine legal actions such as the filing of liens, garnishments, and bankruptcies. Employers are contacted by mail, telephone, or personally to initiate the collection process. The ~~deposition section~~ ~~thoroughly~~ bureau reviews contribution reports against payroll reports for matching totals and verifies the amount of the check against the employer’s report. The ~~section~~ bureau is responsible for depositing all money received for contribution reports, benefit reimbursements, and interest and penalties with the state treasurer’s office. ~~The information on the contribution reports is keypunched and the proof sheets are checked to see that they have been correctly punched.~~ The ~~adjustment/chargeback section~~ bureau assigns contribution rates to employers, handles the accounting work on partial changes of ownership, adjusts the amounts owed by employers, and audits the taxable wages reported by the employer in accordance with state and federal requirements. ~~The chargeback unit removes erroneous charges when employers are charged in error. This unit is also responsible for corrections on employee charge notices which could affect employee contribution tax rates. It is the bureau’s responsibility to contact Iowa and out-of-state employers who do business in Iowa to establish taxpayers’ liability under the law; explain the law’s~~

provisions; secure information and make determinations pertaining to new accounts, successorships and terminating tax liability; collect delinquent contributions; give information and assistance to ensure compliance in the preparation of tax reports and in securing refunds of overpaid taxes; conduct investigations on FUTA discrepancy problems, contractor registration issues, business closings, and claimant requests for omitted wage credits; determine employer/employee and independent contractor relationship issues; assist in fraud investigations; conduct payroll and financial audits; and appear as an expert witness at employer liability hearings. The bureau also provides services to other states that request assistance with unemployment insurance enforcement of Iowa-based employers who conduct business in their states. The bureau also assigns all field audit work. Information is entered into the automated system which generates materials to be utilized by the field audit staff in conducting an employer inquiry and audit.

ITEM 2. Rescind and reserve paragraph **21.1(1)“d.”**

ITEM 3. Amend subrule 22.3(1) as follows:

22.3(1) Each employer shall, ~~not later than~~ by the due date ~~required for the payment of quarterly contributions,~~ file a 65-5300, Employer’s Contribution and & Payroll Report, ~~for such quarter on a form prescribed by the department based upon each quarter listing wages paid with respect to all the employer’s business maintained within this state and computed in accordance with the Iowa Code and these rules. The 60-0103, Employer Payroll Continuation Sheet, shall be used for the additional payroll information which cannot be entered on the 65-5300.~~

ITEM 4. Amend subrule 22.3(6) as follows:

22.3(6) Each Form 65-5300, Employer’s Contribution and & Payroll Report, shall include:

a. The social security number, name (last name first), and total wages paid ~~and taxable wages paid~~ to each employee during the calendar quarter. All corrections to previous reports must be submitted to the department must be listed and submitted on Form 68-0061, Employer’s Wage Adjustment Report. All employees’ wages will be reported by the reporting unit under which the work was performed. See rules 871—23.3(96) through 871—23.6(96).

b. The sum of the total and taxable wages paid to all employees during the calendar quarter. If reported electronically, the sum of the total and taxable wages will be computed for the employer. The electronic system will compute the taxable wages for each employee. If the employer is claiming taxable wages reported to another state, the amount claimed and the state that the wages were reported to will be listed.

c. The amount of contribution due for the calendar quarter. If the report is filed electronically, the system will compute and enter the contribution due.

d. The amount of interest due, if any, for the calendar quarter. If the report is filed electronically, the system will compute and enter the interest due.

e. The amount of penalty due, if any, for the calendar quarter. If the report is filed electronically, the system will compute and enter any penalty due.

f. The total amount of contribution, interest and penalty due for the calendar quarter. If the report is filed electronically, the system will compute and enter the total amount due.

g. ~~The number and amount of the credit memo, if any, used to reduce the net remittance due.~~

h. The amount of net remittance due for the calendar quarter; however, if the amount of net remittance due is less than \$1, the employer ~~may show “.00” as the net remittance due and need not submit a payment with the report.~~ If the report is filed electronically, the system will compute and enter the net remittance due.

i. The total number of employees listed on the report. If the report is filed electronically, the system will compute and enter the total number of employees on the report.

j. The amount of extraordinary pay which was paid to the employees during the calendar quarter for each reporting unit.

k. The total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter for each reporting unit.

l. The number of the county in which the worksite reporting unit is located if only one business activity is conducted at only one worksite during the calendar quarter; however, if the same business activity is conducted at more than one worksite or if different business activities are conducted at one or more worksites, the employer shall also be required to complete and return the Form 65-5519, Multiple Worksite Report, which shall include for each worksite, the total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter and the total wages paid during the calendar quarter. The system will compute and enter taxable wages if the report is filed electronically.

(1) The total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter for all worksites as reported on the Form 65-5519, Multiple Worksite Report, should equal the total number of employees reported for that month ~~in item 11~~ on the Form 65-5300, Employer's Contribution ~~and~~ & Payroll Report.

(2) The total wages paid to all employees at all worksites as reported on the Form 65-5519, Multiple Worksite Report, should equal the total wages reported ~~in item 1~~ on the Form 65-5300, Employer's Contribution ~~and~~ & Payroll Report.

(3) It could be possible for wages to be reported for a worksite without corresponding employment being reported in any of the months during the quarter because wages paid are reportable for the full 13-week period in the calendar quarter, while employment is reportable ~~in item 11~~ on the Form 65-5300, Employer's Contribution ~~and~~ & Payroll Report, when such employment occurs during the pay periods which include the twelfth day of any month in the calendar quarter.

m. and *n.* No change.

o. The signature, written or electronic, of the owner, responsible officer, or authorized agent of the employer certifying that the information given is true and correct to the best of the signer's knowledge and belief, the date the report was submitted and the telephone number.

p. No change.

ITEM 5. Rescind rule 871—22.4(96) and adopt the following **new** rule in lieu thereof:

871—22.4(96) Reporting of earnings data by secure file transfer.

22.4(1) The employer may submit an electronic file in lieu of Form 65-5300, Employer's Contribution & Payroll Report. Authorization for this reporting method will be given if the employer meets the specification requirements to be compatible with the department's computer capabilities. Such specifications will be furnished upon request.

22.4(2) The electronic file submitted will contain all of the employer information, wage information, and labor market information required when filing using the Form 65-5300, Employer's Contribution & Payroll Report. If this method of filing is selected, all wages must be filed using this method. The report will not be considered filed until all worksite reporting units have filed. All corrections to previous reports submitted to the department must be listed and submitted on Form 68-0061, Employer's Wage Adjustment Report.

22.4(3) The director shall annually designate the number of wage lines per report that will require the report be filed electronically.

This rule is intended to implement Iowa Code section 96.11(6)"a."

ITEM 6. Amend rule 871—22.11(96) as follows:

871—22.11(96) Employer account.

22.11(1) Separate accounts. The department shall maintain one account for each employer (or single legal entity). An employer who has more than one establishment or business shall be considered to be one employing unit entitled to one account and a single experience rate. ~~However, the employer may request that the department assign a separate reporting number (account number) to each establishment or business in accordance with rule 22.12(96). If the department issues a separate reporting number to the various establishments or businesses, each establishment or business that has a reporting number must submit a quarterly contribution and payroll report showing all wages paid by the establishment or~~

~~business during each quarter. The experience of all the establishments or businesses of the employer shall be combined on the rate computation date for the purpose of computing one experience rate which shall be applicable to all of the employer's establishments or businesses.~~

If an establishment or business owned by an employer is a separate legal entity in its own right (i.e., a subsidiary corporation), it will be considered to be a separate employer and must have an experience rate based on its own experience.

When an already covered employer acquires another establishment or business, the employer will have a separate account number with a separate experience rate for the acquired business only if that business retains its character as a separate legal entity. If the acquired business is merged with that of the employer so that they become a single legal entity under the law, the successor is not entitled to separate rates ~~although the employer may request a separate reporting number in accordance with rule 22.12(96) for each establishment or business.~~

~~22.11(2) Each employer shall report all wages for employment paid by the employer in all employing enterprises and pay all contributions thereon into the active unemployment account or accounts maintained by the department. The title of the employer's account shall be the name of the individual, partnership, corporation, association or other organization constituting the employing unit, and may contain the trade name used by the employing unit. Where the employing unit is a fiduciary agent or legal representative, the title of the account shall be the name of the fiduciary or legal representative and the official title.~~

~~22.11(3) Each employer's account shall be assigned a number and, except as unless the system of numbering accounts may be is changed, the number identifying an employer's account shall not be changed unless the employer's account is legally terminated and the employer is again determined to be a covered employer.~~

~~22.11(4) No change.~~

~~This rule is intended to implement Iowa Code sections 96.7(2) "a"(1) and 96.19(17).~~

~~ITEM 7. Amend rule 871—22.12(96) as follows:~~

~~871—22.12(96) **Employer's request to maintain separate accounts Reporting units.**~~

~~22.12(1) Any employer having two or more separate establishments will file those establishments as separate reporting units. Additionally at the employer's discretion, the employer may establish reporting units to report according to function within the business. When filing a Form 65-5300, Employer's Contribution & Payroll Report, by paper, all reporting units will be listed on a separate page and will all be submitted together. When filing a Form 65-5300, Employer's Contribution & Payroll Report, by electronic means, the individual reporting units may be filed separately by the reporting units when authorized but the complete account report is not submitted until all reporting units are completed. Maintaining current status for the reporting units will be the employer's responsibility. If any reporting units are deleted or added, the department shall be notified within ten working days from the date of change within this state may file a written request with the department that a separate account number be assigned to each separate establishment. The department at its discretion may grant the employer a separate account number for each separate establishment; however, the separate accounts shall be considered to be one account for all purposes of Iowa Code chapter 96 and shall all carry the same contribution rate.~~

~~22.12(2) If an employer which has two or more separate establishments with separate account numbers sells or conveys one of the separate establishments to another employer, it shall be considered a partial sale of a business and shall be subject to laws and rules governing partial transfers of experience.~~

~~22.12(3) When a covered employer acquires a separate enterprise or business, the employer may file a written request with the department that a separate account number be assigned to the newly acquired enterprise or business. The department at its discretion may grant the employer a separate account number for the newly acquired establishment; however, the separate accounts shall be considered to be one account for all purposes of Iowa Code chapter 96 and shall both carry the same contribution rate.~~

~~22.12(4)~~ An employer's request to have separate account numbers for separate establishments shall not be granted unless it is shown to the satisfaction of the department that allowing the separate account numbers will not add significantly to the administrative costs of the department.

This rule is intended to implement Iowa Code sections 96.7(2) "a" and 96.19(6).

ITEM 8. Amend rule 871—22.13(96) as follows:

871—22.13(96) Procedure to be followed by an employer wishing to have an active account location reporting unit coded for notice of claim for unemployment benefit mailing.

~~22.13(1)~~ Any employing unit reporting under an assigned account and having one or more separate and distinct employing locations reporting units in the state of Iowa may request in writing or electronically the assignment of a location code for each of the various separate and distinct establishments. The location code, which is limited to three digits, reporting unit number which will be assigned for the specific purpose of mailing Form 65-5317, Notice of Claim Filing, to the location coded account reporting unit so that responsible personnel at that location can make a timely protest on Form 65-5317 if the employment separation was for a disqualifiable reason. Those accounts so wishing may request in writing that all unemployment insurance material other than Form 65-5317, Notice of Claim Filing, be sent to the home office or regional accounting office. All such requests must be from a responsible financial or operating officer of the firm and shall indicate:

a. No change.

b. The full trade employer name and address of the home office or financial office that where all unemployment insurance material other than Form 65-5317 is to be sent.

~~22.13(2)~~ No change.

~~22.13(3)~~ Once an account becomes location coded it will become the responsibility of the employer to complete Form 65-5305, Summary of Quarterly Payroll by Location. The employer will record the following information on the Form 65-5305, if it has not been preprinted on the form by the computer:

a. Employer account number.

b. The location code.

c. Firm name and mailing address for Form 65-5317.

d. Industrial classification code.

e. The payroll page numbers for the location code payroll attributable to that location.

f. The total wages attributable to the location code.

g. The taxable wages attributable to that location.

~~22.13(4)~~ Once the employer's account is properly location coded, the following information will be preprinted by the computer on Form 65-5305:

a. The employer's account number.

b. Location code(s).

c. The firm name(s) and mailing address(es) for Form 65-5317.

d. The industrial classification code(s).

~~22.13(5)~~ It will then become the employer's responsibility to complete the following column headings on the Form 65-5305:

a. Page numbers.

b. Total wages attributable to each coded location.

c. Taxable wages attributable to each coded location.

~~22.13(6)~~ It will be the employing unit's responsibility to complete this information in the proper sequence in order for the location code procedure to be maintained in a workable manner. If any locations are deleted or added, the department shall be notified within ten working days from the date of change.

~~22.13(7)~~ Until such time as the first calendar quarter that is entered into the department's data processing system by location code becomes a quarter in a base period, the location coding procedure cannot be considered as fully implemented. Form 65-5317 will continue to be mailed to the employer's last recorded address until the location coded procedure is fully implemented.

This rule is intended to implement Iowa Code section 96.6(2).

ITEM 9. Amend paragraph **22.17(4)“i”** as follows:

i. ~~Generally the~~ The audit will cover a minimum of four calendar quarters; however, if the initial audit discloses material errors as defined by the department are found, the audit may be expanded to cover prior or subsequent periods years subject to limitations of subrule 22.1(1), except that no period covered by a prior audit may be included in the expansion. The auditor will review and correct similar errors in a minimum of a year prior to and after the audited year.

ITEM 10. Amend paragraph **22.17(4)“k”** as follows:

k. When the audit is completed, the audit will be discussed with the employer or a representative designated by the employer. The employer will be furnished copies of any wage adjustments, supplemental reports or delinquent reports prepared by the auditor. An audit report with all worksheets, adjustments and reports will be submitted retained by ~~the auditor to the~~ Iowa workforce development administrative office.

ITEM 11. Amend subrules 22.18(1) and 22.18(2) as follows:

22.18(1) An agent, tax practitioner, accounting firm, attorney or any other firm or individual that represents or intervenes on behalf of an employer in any unemployment insurance matter shall have on file with the department:

- a.* A power of attorney, or
- b.* A letter of authorization from the employer, ~~or~~
- c.* An electronic designation of authority from the employer.

22.18(2) The foregoing documents shall contain the following information:

- a.* ~~The employer's~~ Employer's full trade legal name, address and account number.
- b.* ~~The name, address and telephone number of the agent or firm representing the employer.~~ Employer doing business as (DBA) or trade name if any.
- c.* ~~The signature of the employer.~~ Legal name, address, telephone number and federal employer identification number (FEIN) of the agent or firm representing the employer.
- d.* ~~A statement that such agent or firm is duly authorized to represent the employer.~~ Employer's E-mail address.
- e.* Address of the designated agent.
- f.* Roles that the agent or firm is authorized to perform for the employer.
- g.* Signature of the employer.

ITEM 12. Amend subrule 23.8(3) as follows:

23.8(3) *Due date for new employer.* The first contribution payment of any employer who becomes newly liable for contributions in any year shall become due and payable on the last day of the month ~~next~~ following that quarter wherein occurred the twentieth calendar week, during the calendar year within which a total of one or more workers were employed on any one day, or the last day of the month ~~next~~ following that calendar quarter in which a total of \$1500 in wages was paid. The first payment of such an employer becoming liable in the course of a calendar year shall include contributions with respect to all wages paid for employment from the first day of the calendar year.

a. The first contribution payment of any agricultural employer who becomes newly liable for contributions in any year will become due and payable on the last day of the month following that quarter wherein occurred the twentieth calendar week, during the calendar year within which a total of ten or more workers were employed on any one day, or the last day of the month following that calendar quarter in which a total of \$20,000 in wages was paid. The first payment of such an employer becoming liable in the course of a calendar year shall include contributions with respect to all wages paid for employment from the first day of the calendar year.

b. The first contribution payment of any domestic employer who becomes newly liable for contributions in any year will become due and payable on the last day of the month following that quarter wherein the liability was established, or the last day of the month following that calendar quarter in which a total of \$1,000 in wages was paid. The first payment of such an employer becoming liable in the course of a calendar year shall include contributions with respect to all wages paid for employment from the first day of the calendar year.

ITEM 13. Amend rule 871—23.9(96) as follows:

871—23.9(96) Delinquency notice. Within 20 days from the delinquent date for filing Form 65-5300, Employer's Quarterly Contribution and Payroll Report, a Delinquency Notice, Form 65-5313, will be sent to all employers from whom no report has been received. Such notice shall state the employer's name, account number, experience rate, and the quarter for which the report needs to be made. The notice will be sent to the employer's last-known address or place of business. If the employer has sold or dissolved the business, the employer shall fill out the ~~reverse side of the notice, information section~~ on Form 65-5313, showing the date of the last wages paid and the date of last employment. If the business was sold or transferred, the employer shall show the name and address of the successor, and the employer's future mailing address. Such notice shall then be returned to the department for a change of status determination.

ITEM 14. Rescind subrules **23.11(3)**, **23.11(5)** and **23.11(6)**.

ITEM 15. Renumber subrule **23.11(4)** as **23.11(3)**.

ITEM 16. Amend renumbered paragraph **23.11(3)“b”** as follows:

b. Each worker who has not secured an account number shall file an application for a federal social security account number on Form SS-5 of the Treasury Department, ~~bureau of internal revenue~~ Internal Revenue Service. The application shall be filed on or before the seventh day after the date on which the worker first performs employment for wages, except that the application shall be filed on or before the date the worker leaves employment if such date precedes such seventh day. ~~Copies of Form SS-5, application for a social security account number, can be secured at the field office of the social security board nearest the worker's place of employment or the local post office.~~

ITEM 17. Amend paragraph **23.17(1)“a”** as follows:

a. *New group accounts.* The application shall list each proposed member and must be signed by each proposed member and shall ~~set out~~ appoint one member as the agent for the group ~~with respect to~~ for all dealings with the ~~workforce development~~ department.

ITEM 18. Amend subrule 23.17(9) as follows:

23.17(9) ~~A government group shall not post bond; however, should~~ Should a government group or any ~~member(s) thereof~~ group member default with respect to any payments due the department, the amount of such delinquency shall be deducted from any further moneys due to the members of the group by the state as provided in Iowa Code section 96.14(2).

ITEM 19. Amend paragraphs **23.17(14)“c”** and **“d”** as follows:

c. Each member of a group ~~shall~~ may submit quarterly wage information and labor market information for their reporting unit electronically or ~~each member of a group shall submit~~ a quarterly payroll report to the group's agent who shall combine such reports into one report for all reporting units on Form 65-5300, Employer's Contribution and Payroll Report, and shall submit such combined report to the department on or before the delinquent date for such quarter.

d. ~~The agent shall also submit Form 65-5305, Summary of Quarterly Payroll by Location, designating which page(s) of the combined payroll report belongs to each member of the group in the manner provided in 871—subrules 22.13(3) to 22.13(5). Submittal of the quarterly report electronically by worksite reporting unit will eliminate the requirement to submit the multiple worksite report.~~

ITEM 20. Adopt the following new paragraph **23.18(3)“c”**:

c. Services performed by a son or daughter over the age of 18 as an approved provider for consumer-directed care in the employ of a father or mother who is an approved consumer of a home and community-based waiver services program are exempt from the provisions of Iowa Code chapter 96.

ITEM 21. Amend subrule 23.31(2) as follows:

23.31(2) Portion of reserve and payroll transferred. When the requirements for partial transfer as defined in subrule 23.31(1) have been met, the transfer shall be made in accordance with one of the following:

a. If the predecessor's account has been in existence less than five years prior to the acquisition or purchase date (or more than five years when records are available), the ~~actual taxable wages contributions, benefit charges, interest earned, and wage records of individual employees (as supplied on Form 68-0065) attributable to the portion acquired shall be transferred~~ information necessary to calculate future rates will be transferred; or;

b. If the predecessor's account has been in existence more than five years (and records prior to five years are unavailable) and the acquired portion has also been in existence more than five years,

(1) The actual taxable wages, ~~contributions, and benefit charges, and interest earned~~ attributable to the acquired portion for the five-year period immediately preceding the date of acquisition shall be transferred, plus

(2) That portion of the predecessor's ~~contributions, benefit charges, and interest earned~~ for the period commencing with the beginning date of the predecessor's account and ending five years prior to the acquisition date equal to the ratio of the taxable wages attributable to the acquired portion for the 12 completed calendar quarters immediately preceding the acquisition date to the total taxable wages reported by the predecessor for the same 12-quarter period, and

(3) The individual wage records attributable to the acquired portion (as supplied on Form 68-0065); or;

c. If the predecessor's account has been in existence more than five years but the acquired portion came into existence within the last five years, the actual taxable wages, ~~contributions, benefit charges, interest earned~~ and individual wage records (as supplied on Form 68-0065) attributable to the acquired portion shall be transferred; or

d. In the case of governmental transfers in addition to the items listed above, contributions and interest earned must be transferred for all years.

ITEM 22. Amend subparagraph **23.32(4)“a”(2)** as follows:

(2) Using this percentage, taxable wages, ~~contributions, and benefit charges and interest earned~~, commencing with the beginning date of the predecessor's account, will be transferred from the predecessor's account to the successor's account.

ITEM 23. Adopt the following **new** paragraph **23.32(4)“h”**:

h. In the case of governmental transfers in addition to the items listed above, contributions and interest earned must be transferred for all years.

ITEM 24. Amend rule 871—23.36(96) as follows:

871—23.36(96) Predecessor—contribution rates for winding down a business. In the case where a predecessor has transferred its organization, trade, or business, or substantially all assets, to a successor in interest and the predecessor employer continues to operate a part of the business in order to wind down or close the business after the date of transfer, the predecessor shall ~~be assigned a new account number and the rate of a newly covered employer for the purposes of reporting the wind down wages~~ retain the same account number but will recompute the eligibility year, determination date, effective date, law citation and tax rate to that of a newly covered employer. For the purposes of this rule, the term “wind down wages” may exclude wages earned before the sale or transfer that were paid in the four consecutive quarters after the quarter in which the sale or transfer occurred.

This rule is intended to implement Iowa Code sections 96.8(1) and 96.8(4) “a.”

ITEM 25. Amend rule 871—23.37(96) as follows:

871—23.37(96) Adjustments and refunds of contributions.

23.37(1) ~~Contribution reports, when once submitted, shall not be returned to employers for correction.~~ Whenever any employer discovers that the contribution report submitted is incorrect resulting in overpayment of contributions due and owing, such employer may file an application for credit allowance or refund. If the department discovers that the contribution report submitted by any employer is incorrect resulting in overpayment of contribution, it may on its own initiative refund or make a credit allowance. No refund or credit allowance will be made after three years from the date

on which the overpayment was made. The ~~application~~ (Form 68-0061, Employer's Wage Adjustment Report, ~~Form 68-0061~~) shall be furnished by the department and shall be filed by paper or electronically to show corrections to the individual wage amounts, corrections to the report of grand totals (total wages, taxable wages and ~~contribution~~ contributions), and a full explanation for the adjustment. Adjustment shall be made by the department in the form of credit allowance or refund as provided in subrule 23.37(3) equal to that portion of contributions erroneously paid which exceeds the benefits paid to claimants as a direct result of the employer's erroneous report.

23.37(2) If the contribution and wage report first submitted by an employer understates the amount of wages paid for a given period, ~~such the~~ employer shall will file using a supplemental report or Employer's Wage Adjustment Report, Form 68-0061, Employer's Wage Adjustment Report, for the period and make remittance payment covering all additional contributions, penalty and interest due ~~and owing for the period on the unreported wages and interest.~~

a. If it is apparent, upon examination of any regular or supplemental contribution report or Form 68-0061, Employer's Wage Adjustment Report, ~~Form 68-0061~~, that a greater contribution than is required by law has been paid, the department may, within three years from the date of such overpayment, make an adjustment and issue a credit adjustment memorandum for such overpayment.

b. If it is not apparent from the examination of any regular or supplemental contribution report or Form 68-0061, Employer's Wage Adjustment Report, ~~Form 68-0061~~, that a contribution greater than that required by law has been made, any employer or employing unit claiming a credit adjustment shall file with the department a written application for such adjustment within three years from the date on which such overpayment was made. Such credit adjustment shall be granted only after a review of the application which shall will set forth such information in the matter as may be required. If, after such review, the adjustment is found to be in order, the department shall issue a credit adjustment ~~memorandum~~ or refund for the overpayment.

23.37(3) ~~Each credit adjustment memorandum issued shall be mailed to the employer at the last known address. The employer may attach the memorandum to the contribution and wage report to the department for a future reporting period following receipt of the memorandum. The amount of the credit memo will be deducted from the contributions in the employer's account and credited to a credit memo any outstanding account balance until the credit memo is used or canceled in accordance with these rules. Upon receipt by the department, the credit memorandum will be applied against contributions due for the period covered by the contribution report to which the memorandum is attached and the account will be adjusted accordingly. If the employer fails to utilize the credit memorandum issued to it as provided above, the department shall, three years from the date of issuance, cancel the credit and redeposit the amount of the credit to the employer's reserve balance show it as a nonrefundable credit. The department, upon request of the employer or employing unit or upon on its own initiative, may issue an order directing a refund of the overpayment. The state comptroller is responsible for the issuance of the warrant.~~

23.37(4) and **23.37(5)** No change.

ITEM 26. Rescind and reserve rule **871—23.46(96)**.

ITEM 27. Amend rule 871—23.47(96) as follows:

871—23.47(96) Termination of accounts because of no wage reports.

23.47(1) If an employer discontinues business or continues business without employment, the employer may request that the employer's account be placed ~~into pending~~ in an inactive status. The term "pending" refers to an account that is placed in inactive status pending termination as provided in Iowa Code section 96.8(4)"b." Upon determination of pending an inactive status, the department shall notify the employer ~~on Form 65-5308, Notice of Employer Status and Liability~~, that the employer's account has been placed in an inactive status and that the employer shall ~~no longer receive a quarterly reporting Form 65-5300, Employer's Contribution and Payroll Report. While in pending status, the business is not required to file quarterly reports. However, the employer must notify the department if, at any time, the employer resumes paying Iowa wages.~~

~~23.47(2) If, at any time, the department finds by that an employer liability investigation or otherwise that an employer has discontinued business or is no longer paying wages, the department may on its own motion place the account in pending an inactive status. However, the employer must notify the department if, at any time, the employer resumes paying Iowa wages.~~

~~23.47(3) If, at any time prior to termination, a pending an inactive account is found to have paid wages in any quarter, the employer account shall be reactivated, reports shall be secured for all quarters in which the account was in pending inactive, including no wage reports for quarters for which there was no employment, and the account shall receive an experience rating; provided, the account has been in existence long enough to qualify for an experience rating.~~

~~23.47(4) No change.~~

~~23.47(5) If an employer has filed eight consecutive reports with zero wages, the account may be placed in inactive status.~~

~~This rule is intended to implement Iowa Code sections 96.7(2) “c” and “d” and 96.8(4) “b.”~~

ITEM 28. Amend rule 871—23.48(96) as follows:

871—23.48(96) Previously covered employers. ~~If a contributory employer’s account has been properly terminated (including an employer who has terminated an election to be contributory and has elected to be reimbursable), and such the employer is again determined liable or a reimbursable employer again elects to be contributory, the employer shall be treated the same as a newly covered employer, except the employer will not receive a new account number. The employer’s wage information prior to the termination will not be used for tax rate or taxable wage calculations.~~

~~This rule is intended to implement Iowa Code sections 96.7 and 96.8.~~

ITEM 29. Amend subrule 23.60(2) as follows:

~~23.60(2) The amount of the penalty for a delinquent or insufficient report shall be based on the total wages paid by the employer in the period for which the report was due, except that the penalty shall not be less than \$10 \$35 for the first delinquent report or the first insufficient report not made sufficient within 30 days of a request to do so. The penalty shall not be less than \$25 for the second delinquent or insufficient report, and not less than \$50 for each subsequent delinquent or insufficient report, until four consecutive calendar quarters of reports are timely and sufficiently filed. An insufficient report is defined as a quarterly report that does not have all social security numbers, all corresponding names, total wages for each employee, or a reporting unit number. Reports submitted without a correct account number, federal employer identification number, labor market information, signature, or report submitted for an unemployment account that has not yet been established by the employer or agent may be considered insufficient.~~

ITEM 30. Amend paragraphs 23.70(11) “a” and “b” as follows:

~~a. A nonprofit organization changing its tax status from reimbursable to contributory or contributory to reimbursable will retain the same employer account number. A nonprofit organization terminating its election to reimburse the fund shall be treated as a newly covered employer for the purpose of establishing a contribution rate, except as provided in paragraph “b.”~~

~~b. Separate accounts will be maintained for the period of time that a nonprofit organization is reimbursable and for the period of time for which the nonprofit organization is contributory. The experience of these accounts, while under each tax status, will not be combined for rate computation purposes unless the department finds, or has reason to believe, that the nonprofit organization changing from a reimbursable status to a contributory status is unable to reimburse the fund for benefits outstanding at the time of the change in status, plus any benefits paid after the change in status that are based on wages paid while the nonprofit organization was still in a reimbursable status. The department may then, at its own option, use the unreimbursed benefits in the computation of the nonprofit organization’s contribution rate and transfer any contributions collected, above what the nonprofit organization would have paid as a newly covered employer, from the nonprofit organization’s contributory account to the reimbursable account to apply against the unreimbursed benefits.~~

ITEM 31. Amend paragraph **24.22(2)“f”** as follows:

f. Part-time worker; student—other. Part-time worker shall mean any individual who has been in the employ of an employing unit and has established a pattern of part-time regular employment which is subject to the employment security tax, and has accrued wage credits while working in a part-time job. If such part-time worker becomes separated from this employment for no disqualifiable reason, and providing such worker has reasonable expectation of securing other employment ~~during the same hours~~ and for the same number of hours worked, no disqualification shall be imposed under Iowa Code section 96.4(3). In other words, if an individual is available to the same degree and to the same extent as when the wage credits were accrued, the individual meets the eligibility requirements of the law.

ITEM 32. Adopt the following **new** rule 871—24.40(96):

871—24.40(96) Training extension benefits.

24.40(1) The purpose of training extension benefits is to provide the individual with continued eligibility for benefits so that the individual may pursue a training program for entry into a high-demand or high-technology occupation. Training extension benefits are available to an individual who was laid off or voluntarily quit with good cause attributable to the individual’s employer from full-time employment in a declining occupation or is involuntarily separated from full-time employment as a result of a permanent reduction of operations.

24.40(2) The weekly benefit amount shall be pursuant to the same terms and conditions as regular unemployment benefits and the benefits shall be for a maximum of 26 times the weekly benefit amount of the claim which resulted in eligibility. Both contributory and reimbursable employers shall be relieved of charges for training extension benefits.

24.40(3) The course or courses must be for a high-demand or high-technology occupation. The department will make available to serve as a guide a list of high-demand, high-technology, and declining occupations. The lists shall be available on the department’s Web site and workforce centers.

a. High-technology occupations include life sciences, advanced manufacturing, biotechnology, alternative fuels, insurance, environmental technology, and technologically advanced green jobs. A high-technology occupation is one which requires a high degree of training in the sciences, engineering, or other advanced learning area and has work opportunities available in the labor market area or the state of Iowa.

b. A high-demand occupation means an occupation in a labor market area or the state of Iowa as a whole in which the department determines that work opportunities are available.

c. A declining occupation has a lack of sufficient current demand in the individual’s labor market area or the state of Iowa for the occupational skills possessed by the individual, and the lack of employment opportunities is expected to continue for an extended period of time.

d. A declining occupation includes an occupation for which there is a seasonal variation in demand in the labor market or the state of Iowa, and the individual has no other skill for which there is a current demand.

e. A declining or high-demand occupation will be determined by using Iowa labor market information for each region in the state.

24.40(4) The individual must be enrolled in the training no later than the end of the benefit year which included the separation which made the individual eligible for training benefits or the week in which any federal benefit program based upon that benefit year is exhausted. Enrolled before the end of the benefit year means the individual has taken all steps available for entry into the training and has secured a reserved position in the training class. The individual has paid tuition or will pay tuition when the training starts. The training class may begin after the end of the benefit year. The application for training benefits must be received 30 days after the end of the benefit year or 30 days after federal benefits are exhausted. The individual must be enrolled and making satisfactory progress to complete the training program in order to continue to be eligible for training extension benefits.

24.40(5) Training benefits shall cease to be available if the training is completed; the individual quits the training course; the individual exhausts the training extension maximum benefit amount; or the individual fails to make satisfactory progress; and benefits shall cease no later than one calendar year

following the end of the benefit year in which the individual became eligible for the benefits. Individuals must file and receive benefits under any federal or state unemployment insurance benefit program until the claim has expired or has been exhausted, in order to maintain eligibility for training extension benefits.

This rule is intended to implement 2009 Iowa Acts, Senate File 197, section 1.

ITEM 33. Amend subrule 24.58(1) as follows:

24.58(1) A shared work plan will last no longer than ~~26~~ 52 weeks from the date on which the plan is first effective. The minimum length of a plan is four weeks. An employing unit is eligible for only one plan during a 24-month period.

ITEM 34. Amend rule ~~871—24.58(96)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 96.40 as amended by 2009 Iowa Acts, Senate File 478, section 111.